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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/662,278	09/14/2000	William Duvall		9230

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Rines & Rines  
81 North State Street  
Concord, NH 03301

EXAMINER

APPIAH, CHARLES NANA

ART UNIT	PAPER NUMBER
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2686

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/662,278

Applicant(s)

DUVALL ET AL.

Examiner

Charles Appiah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-8 and 10-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-8 and 10-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                 |                                                                             |
|-------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                                     | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 1, 3-8 and 10-14 have been considered but are moot in view of the new ground(s) of rejection.

### *Specification*

2. The title of the invention is not descriptive and too long. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: "Method and System for portable cellular phone voice communication and positional location data communication".

### *Claim Rejections - 35 USC § 103*

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1, 3-5, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Giniger et al. (6,199,045)** in view of **Kennedy, III et al. (5,544,225)**.

Regarding claims 1, and 8 Giniger discloses a method and system (see Fig. 1) of voice and GPS satellite constellation (109) positional location data radio communication over a cellular phone network (101) having a user cellular radio voice channel path communicating with a network operations control center (107), the method comprising: user voice-calling the control center, from a portable cellular telephone location over the cellular radio voice path, requesting user location and other information services (see col. 11, lines 7-13), and verifying the user (see col. 14, lines 3-

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20), sending a radio signal from the control center to be received at the location (see col. 11, lines 13-20, col. 11, lines 59-60), installing a radio transponder (feature of cellular antenna 405) and GPS receiver (GPS receiver attached to GPS antenna 401), and microprocessor (413) at the location (see Fig. 4), activating the GPS receiver in response to receipt of the radio signal at the location to receive and process location data from the GPS satellite constellation (see col. 11, lines 59-61), and to activate the transponder to transmit the processed location data to the control center (see col. 11, line 61 to col. 12, line 20), associating the transmitted location data with the user voice call request at the control center and sending location services information from the control center to the user over the cellular radio the cellular radio voice channel path (see col. 12, lines 20-32).

Giniger fails to specifically teach using a data path or channel, which is separate from the voice channel for transmitting the radio signal from the control center as well transmission.

Kennedy discloses a system for data messaging in a cellular communications network that include the feature of sending data messages over a dedicated data channel of the cellular telephone network (see col. 2, lines 7-55, col. 5, lines 41-56). According to Kennedy data messages may be sent or received from a messaging unit over a dedicated data channel or use a single telecommunications line to provide both voice and data (see col. 6, lines 10-61, col. 2, lines 35-67), and that an application of data messaging is the monitoring of a group of items to send messages to a remote location in response to a recognized reporting event such as a truck trailer monitoring

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system use data messaging to collect information on the current position and status of a fleet of truck trailers (see col. 1, lines 32-62).

It would therefore have been obvious to one of ordinary skill in the art to use the data messaging of Kennedy over dedicated data channels with Giniger's location-related information provision system in order to provide the transmission voice and data communications over separate channels as taught by Kennedy.

Regarding claims 3, and 10, Giniger further teaches wherein the data path is selected from the group consisting of satellite communications links, two-way paging networks and through web portals via the Internet (see col. 17, lines 9-28) while Kennedy also discloses transmitting over a data channel in the network (see col. 6, lines 18-26).

Regarding claims 4 and 11 Giniger further teaches wherein the voice channel path is selected from the group consisting of SMR, VHF, UHF, GSM, satellite and cellular telephone network control channel links (see col. 11, lines 7-16, col. 19, lines 40-54).

Regarding claim 5, the combination of Giniger and Kennedy meets all limitations as applied above to claims 1 and 8. In addition Kennedy further teaches positional location data radio data communication for truck trailer monitoring using messaging units attached to mobile items to be monitored such as vehicles or cargo containers (see col. 6, lines 27-33) including the feature of dispatchers or managers of vehicle fleets being able to monitor or track the location of the vehicles without interrupting the vehicle driver or user through the use of triggering events such as a time-out signal for

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reporting location and status information of a tractor trailer (see col. 7, line 55 to col. 8, line 7, col. 9, lines 33-60, col. 12, lines 3-37) having inherent GPS modules in the vehicles to monitor or track the location of the vehicles without interrupting the vehicle driver or user (see col. 15, lines 34 to col. 16, line 14).

5. Claims 3, 6, 7, 12, 13 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Giniger et al** and **Kennedy et al** as applied to claims 1 and 5 above, and further in view of **Novik (6,339,745)**.

Regarding claims 3, 6, 7, 10 and 14, Kennedy teaches wherein the user is a vehicle user and the radio transponder, GPS receiver and microprocessor are installed in the vehicle (see Kennedy, Fig. 5) but the combination of Giniger and Kennedy and fail to specifically teach wherein, when the vehicle user is remote from the vehicle, or the dispatcher or manager or the user can access a web portal interfacing with the channels to determine the location of the vehicle.

Novik teaches a system and method for tracking and efficiently managing the vehicles in a fleet using GPS position information (see col. 3, lines 4-25). Novik suggests the use of using means such as radio, cellular, digital radio or satellite communication means as well the transmission of GPS information over the Internet (see col. 4, lines 37-63) suggesting a web portal capability.

It would therefore have been obvious to one of ordinary skill to provide for Internet capability location information tracking as taught by Novik to be used in the location service provision system of Giniger and Kennedy in order to take advantage of

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the wide array of resources and services available over web portals via the Internet for efficiently managing vehicle fleets.

Regarding claim 12, the combination of Giniger, Kennedy and Novik further disclose wherein software is provided to enable vehicle fleet dispatches or managers to access the GPS-transponder modules of the vehicles of the fleet, to enable the tracking of the location of such vehicles without interrupting the vehicle driver or user as taught by Kennedy (see col. 15, lines 34 to col. 16, line 14) and Novik (see col. 3, lines 6-15).

Claim 13 is rejected for the same reasons as set forth in the rejection of claims 3, 6, 7, 10 and 14 above.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Westerlage et al. (5,724,243) discloses a method for determining the expected time of arrival of a vehicle equipped with a mobile unit.

Schuchman et al. (5,365,450) discloses a hybrid GPS/data unit for precise position reporting.

Hillman et al. (6,320,535) discloses a vehicle tracking and security system incorporating voice and data communication.

Dimino (5,918,180) discloses a tracking and monitoring system for locating vehicles.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Appiah whose telephone number is 703 305-4772. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 703 305-4379. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CA  
March 04 2004

  
**CHARLES APPIAH**  
**PRIMARY EXAMINER**